

Central Intelligence Agency



Washington, D.C. 20505

OCA/86-0452
13 February 1986


Ms. Deborah Leavy
Assistant Counsel
Subcommittee on Courts, Civil Liberties
& the Administration of Justice
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Ms. Leavy:

I am enclosing for your review our proposed amendment to H.R. 3378, "The Electronic Communication Privacy Act of 1985." Our proposal would amend Section 2511(2)(f) of Title 18, United States Code by broadening the exemption to include activities relating to the acquisition of foreign intelligence information from foreign electronic communication systems. The proposed amendment could be added to H.R. 3378 by creating a new paragraph in subsection 101(b) of the bill.

We would be willing to meet with you to explain this proposed amendment at your convenience. I have also transmitted a copy of the proposed amendment to the HPSCI.

Sincerely,


Legislation Division
Office of Congressional Affairs

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Enclosure

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PROPOSED AMENDMENT

Sec. 101 (b)(1)-- Section 2511(2)(f) of title 18, United States Code, is amended by inserting after the phrase "foreign intelligence information from international or foreign communications" the phrase "or foreign intelligence activities relating to a foreign electronic communication system".

SECTIONAL ANALYSIS

The purpose of this proposed amendment is to make clear that the prohibitions contained in the bill on activities relating to accessing electronic communication systems without authorization are not intended to restrict authorized intelligence activities conducted by a person carrying out official duties who is employed by, assigned to or acting for an agency within the intelligence community. Authorized intelligence activities are those which are consistent with Executive Order 12333 or its successor orders, taking into account the Constitution of the United States, relevant statutes, other Executive Orders and Presidential directives.

CHANGES IN EXISTING LAW

18 U.S.C. 2511 (2) (f)

(f) Nothing contained in this chapter or section 705 of the Communications Act of 1934, shall be deemed to affect acquisition by the United States Government of foreign intelligence information from international or foreign communications or foreign intelligence activities relating to a foreign electronic communication system, by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.